

4-39-101. Title.

This chapter is known as the "Domesticated Elk Act."

Enacted by Chapter 302, 1997 General Session

4-39-102. Definitions.

As used in this chapter:

(1) "Domesticated elk" means elk of the genus and species *cervus elaphus*, held in captivity and domestically raised for commercial purposes.

(2) "Domesticated elk facility" means a facility where domesticated elk are raised.

(3) "Domesticated elk product" means any carcass, part of a carcass, hide, meat, meat food product, antlers, or any part of a domesticated elk.

Enacted by Chapter 302, 1997 General Session

4-39-103. Department's responsibilities.

The department is responsible for enforcing laws and rules relating to:

(1) the importation, possession, or transportation of domesticated elk into the state or within the state;

(2) the inspection of domesticated elk facilities;

(3) preventing the outbreak and controlling the spread of disease-causing pathogens among domesticated elk in domesticated elk facilities;

(4) preventing the spread of disease-causing pathogens from domesticated elk to wildlife, other animals, or humans; and

(5) if necessary, quarantining any domesticated elk pursuant to Chapter 31, Control of Animal Disease.

Amended by Chapter 331, 2012 General Session

4-39-104. Advisory council.

(1) The department shall establish an advisory council to give advice and make recommendations on policies and rules adopted pursuant to this chapter.

(2) The advisory council shall consist of eight members appointed by the commissioner of agriculture to four-year terms as follows:

(a) two members, recommended by the executive director of the Department of Natural Resources, shall represent the Department of Natural Resources;

(b) two members shall represent the Department of Agriculture, one of whom shall be the state veterinarian;

(c) two members shall represent the livestock industry, one of whom shall represent the domesticated elk industry; and

(d) two members, recommended by the executive director of the Department of Natural Resources from a list of candidates submitted by the Division of Wildlife Resources, shall represent wildlife interests.

(3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that

the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the advisory council constitutes a quorum. A quorum is necessary for the council to act.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

4-39-105. Prohibited activities.

(1) Except as provided in this title or in the rules of the department made pursuant to this title, a person may not:

(a) acquire, import, or possess domesticated elk intended for use in a domesticated elk facility;

(b) transport domesticated elk to or from a domesticated elk facility;

(c) propagate domesticated elk in a domesticated elk facility; or

(d) harvest, transfer, possess, or sell domesticated elk or domesticated elk products from a domesticated elk facility.

(2) Releasing domesticated elk into the wild is prohibited.

Amended by Chapter 378, 1999 General Session

4-39-106. Department to make rules.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, after considering the recommendations of the advisory council:

(a) specifying procedures for the application and renewal of licenses for operating a domesticated elk facility;

(b) governing the disposal or removal of domesticated elk from a domesticated elk facility for which the license has lapsed or been revoked;

(c) setting standards and requirements for operating a domesticated elk facility;

(d) setting health requirements and standards for health inspections; and

(e) governing the possession, transportation, and accompanying documentation of domesticated elk carcasses.

(2) The department may make other rules consistent with its responsibilities set forth in Section 4-39-103.

Amended by Chapter 382, 2008 General Session

4-39-107. Powers of state veterinarian.

The state veterinarian shall:

- (1) set up periodic or ongoing surveillance programs considered necessary for:
 - (a) the recognition, control, monitoring, and elimination of infectious diseases and parasites; and
 - (b) monitoring genetic purity; and
- (2) quarantine or make any disposition of diseased animals that he or she considers necessary for the control or eradication of that disease.

Enacted by Chapter 302, 1997 General Session

4-39-108. Deposit of fees.

The department shall deposit all fees collected under this chapter into the Utah Livestock Brand and Anti-Theft Account created in Section 4-24-24.

Enacted by Chapter 302, 1997 General Session

4-39-201. Fencing, posts, and gates.

(1) Each domesticated elk facility shall, at a minimum, meet the requirements of this section and shall be constructed to prevent the movement of domesticated elk into or out of the facility.

(2) (a) All perimeter fences and gates shall be:

- (i) a minimum of eight feet above ground level; and
- (ii) constructed of hi-tensile steel.

(b) At least the bottom four feet shall be mesh with a maximum mesh size of 6" x 6".

(c) The remaining four feet shall be mesh with a maximum mesh size of 12" x 6".

(3) The minimum wire gauge shall be 14-1/2 gauge for a 2 woven hi-tensile fence.

(4) All perimeter gates at the entrances of domesticated elk handling facilities shall be locked, with consecutive or self-closing gates when animals are present.

(5) Posts shall be:

- (a) (i) constructed of treated wood which is at least four inches in diameter; or
- (ii) constructed of a material with the strength equivalent of Subsection (5)(a)(i);
- (b) spaced no more than 30 feet apart if one stay is used, or 20 feet apart if no stays are used; and

(c) at least eight feet above ground level and two feet below ground level.

(6) Stays, between the posts, shall be:

- (a) constructed of treated wood or steel;
- (b) spaced no more than 15 feet from any post; and
- (c) at least eight feet above ground level, and two feet below ground level.

(7) Corner posts and gate posts shall be braced wood or its strength equivalent.

Amended by Chapter 378, 2010 General Session

4-39-202. General facility requirements.

(1) (a) Internal handling facilities shall be capable of humanely restraining an individual animal and to facilitate:

- (i) the application or reading of any animal identification;
- (ii) the taking of blood or tissue samples; and
- (iii) any other required or necessary testing procedure.

(b) A domesticated elk facility shall be properly constructed to protect inspection personnel while they are handling the domesticated elk.

(2) The domesticated elk facility owner shall provide ample signage around the facility indicating that it is a domesticated elk facility, so that the public is put on notice that the animals are not wild elk.

Enacted by Chapter 302, 1997 General Session

4-39-203. License required to operate a domesticated elk facility.

(1) A person may not operate a domesticated elk facility without first obtaining a license from the department.

(2) (a) Each application for a license to operate a domesticated elk facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section 63J-1-504.

(3) Each applicant for a domesticated elk facility license shall submit an application providing all information in the form and manner as required by the department.

(4) (a) No license shall be issued until the department has inspected and approved the facility.

(b) The department shall:

(i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled inspection so that a Division of Wildlife Resources representative may be present at the inspection; and

(ii) provide the Division of Wildlife Resources with copies of all licensing and inspection reports.

(5) Each separate location of the domesticated elk operation shall be licensed separately.

(6) (a) If a domesticated elk facility is operated under more than one business name from a single location, the name of each operation shall be listed with the department in the form and manner required by the department.

(b) The department shall require that a separate fee be paid for each business name listed.

(c) If a domesticated elk facility operates under more than one business name from a single location, the facility shall maintain separate records.

(7) Each person or business entity with an equity interest in the domesticated elk shall be listed on the application for license.

(8) Each domesticated elk facility license shall expire on July 1 in the year following the year of issuance.

(9) Each licensee shall report to the department, in the form and manner required by the department, any change in the information provided in the licensee's

application or in the reports previously submitted, within 15 days of each change.

(10) Licenses issued pursuant to this section are not transferable.

Amended by Chapter 183, 2009 General Session

4-39-204. Inspection of domesticated elk.

Following the issuance of a license, the licensee shall have each domesticated elk inspected within 60 days following the stocking of the facility.

Enacted by Chapter 302, 1997 General Session

4-39-205. License renewal.

(1) To renew a license, the licensee shall submit to the department:

(a) an inspection certificate showing that:

(i) the domesticated elk, on the domesticated elk facility, have been inspected and certified by the department for health, proof of ownership, and genetic purity; and
(ii) the facility has been properly maintained as provided in this chapter during the immediately preceding 60-day period; and

(b) a record of each purchase of domesticated elk and transfer of domesticated elk into the facility, which shall include the following information:

(i) name, address, and health approval number of the source;

(ii) date of transaction; and

(iii) number and sex.

(2) (a) If the application for renewal is not received on or before April 30, a late fee will be charged.

(b) A license may not be renewed until the fee is paid.

(3) If the application and fee for renewal are not received on or before July 1, the license may not be renewed, and a new license shall be required.

Amended by Chapter 378, 2010 General Session

4-39-206. Records to be maintained.

(1) The following records and information shall be maintained by a domesticated elk facility for a period of five years:

(a) records of purchase, acquisition, distribution, and production histories of domesticated elk;

(b) records documenting antler harvesting, production, and distribution; and

(c) health certificates and genetic purity records.

(2) For purposes of carrying out the provisions of this chapter and rules promulgated under this chapter and, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all records required to be kept.

(3) The department may make copies of the records referred to in this section.

Amended by Chapter 378, 2010 General Session

4-39-207. Inspection of facilities.

(1) The department may conduct pathological or physical investigations at any domesticated elk facility to ensure compliance with this chapter.

(2) For purposes of carrying out the provisions of this chapter and rules promulgated under this chapter and, at any reasonable time during regular business hours, the department shall have free and unimpeded access to inspect all buildings, yards, pens, pastures, and other areas in which any domesticated elk are kept, handled, or transported.

(3) The department shall notify the Division of Wildlife Resources prior to an inspection so that a Division of Wildlife Resources representative may be present at the inspection.

Enacted by Chapter 302, 1997 General Session

4-39-301. Genetic purity requirements -- Proof of source.

As part of any inspection for licensing or renewing the license of a domesticated elk facility, or for the importation, transportation, or change of ownership of any domesticated elk, the department shall require:

(1) proof of genetic testing to ensure the purity of the domesticated elk herds and prevent the introduction of red deer or hybrid nonnative species into domesticated elk herds in Utah by showing evidence of the purity of live animals, gametes, eggs, sperm, or other genetic material; and

(2) proof that the domesticated elk originates from a legal source as provided in Section 4-39-302.

Enacted by Chapter 302, 1997 General Session

4-39-302. Acquisition of domesticated elk for use in domesticated elk facilities.

Domesticated elk intended for use in domesticated elk facilities shall meet all health and genetic requirements of this chapter.

Amended by Chapter 378, 2010 General Session

4-39-303. Importation of domesticated elk.

(1) A person may not import domesticated elk into the state for use in domesticated elk facilities without first obtaining:

- (a) an entry permit from the state veterinarian's office; and
- (b) a domesticated elk facility license from the department.

(2) The entry permit shall include the following information and certificates:

- (a) a health certificate with an indication of the current health status;
- (b) proof of genetic purity as required in Section 4-39-301;
- (c) the name and address of the consignor and consignee;
- (d) proof that the elk are tuberculosis and brucellosis free;
- (e) the origin of shipment;
- (f) the final destination;

(g) the total number of animals in the shipment; and
(h) any other information required by the state veterinarian's office or the department.

(3) No domesticated elk will be allowed into the state that originates east of the 100 degree meridian, to prevent introduction of the meningeal worm.

Enacted by Chapter 302, 1997 General Session

4-39-304. Marking domesticated elk.

- (1) Each domesticated elk, not previously tattooed, shall be marked by either a tattoo, as provided in Subsection (2), or by a microchip, as provided in Subsection (3):
- (a) within 30 days of a change of ownership; or
 - (b) in the case of newborn calves, within 15 days after being weaned, but in any case, no later than September 15.
- (2) If a domesticated elk is identified with a tattoo, the tattoo shall:
- (a) be placed peri-anally or inside the right ear; and
 - (b) consist of a four-digit herd number assigned by the department over a three-digit individual animal number assigned by the owner.
- (3) If a domesticated elk is identified with a microchip, it shall be placed in the right ear.

Amended by Chapter 378, 2010 General Session

4-39-305. Transportation of domesticated elk to or from domesticated elk facilities.

Any domesticated elk transferred to or from a domesticated elk facility within the state shall be:

- (1) accompanied by a brand inspection certificate specifying the following:
 - (a) the name, address, and facility license number of the source;
 - (b) number, sex, and individual identification number; and
 - (c) name, address, and facility license number of the destination;
- (2) accompanied by proof of genetic purity as provided in Section 4-39-301; and
- (3) inspected by the department as provided in Section 4-39-306.

Amended by Chapter 378, 2010 General Session

4-39-306. Inspection prior to movement, sale, removal of antlers, or slaughter.

- (1) Each domesticated elk facility licensee shall have the domesticated elk inspected by the department prior to any transportation, sale, removal of antlers, or slaughter.
- (2) Any person transporting or possessing domesticated elk or domesticated elk products shall have the appropriate brand inspection certificate in his or her possession.

Amended by Chapter 378, 2010 General Session

4-39-307. Inspections -- Qualifications of inspectors.

Health certification shall be based upon inspections carried out in accordance with standards specified by the department.

Enacted by Chapter 302, 1997 General Session

4-39-401. Escape of domesticated elk -- Liability.

(1) It is the owner's responsibility to try to capture any domesticated elk that may have escaped.

(2) The escape of a domesticated elk shall be reported immediately to the state veterinarian or a brand inspector of the Department of Agriculture who shall notify the Division of Wildlife Resources.

(3) If the domesticated elk is not recovered within 72 hours of the escape, the Department of Agriculture, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.

(4) The owner shall reimburse the state or a state agency for any reasonable recapture costs that may be incurred in the recapture or destruction of the animal.

(5) Any escaped domesticated elk taken by a licensed hunter in a manner which complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.

(6) The owner shall be responsible to contain the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Amended by Chapter 189, 2014 General Session

4-39-402. Removal of wild elk -- Liability.

(1) Upon discovery of wild elk in a domesticated elk facility, the licensee shall immediately notify the Division of Wildlife Resources who shall remove the wild elk.

(2) The state or a state agency is not liable for disease or genetic purity problems of domesticated elk which may be attributed to wild elk.

Enacted by Chapter 302, 1997 General Session

4-39-501. Enforcement and penalties.

(1) Any violation of this chapter is a class B misdemeanor and may be grounds for revocation of the license or denial of any future license as determined by the department.

(2) A violation of any rule made under this chapter may be grounds for revocation of the license or denial for future licenses as determined by the department.

Enacted by Chapter 302, 1997 General Session

4-39-502. Adjudicative proceedings.

Adjudicative proceedings under this chapter shall be conducted in accordance

with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session